

HUMAN SERVICES BOARD

INTRODUCTION

DISCUSSION

A fair hearing was scheduled in Burlington, Vermont on March 30, 2000. At that time the petitioner requested a continuance to obtain an attorney. SRS objected because the

petitioner was being allowed to continue operating her day care pending the outcome of the hearing. The hearing officer granted the petitioner's motion over SRS's objection.

On April 10, 2000, SRS notified the Board that the petitioner had informed SRS that she would not have an attorney. The Board reset the matter for hearing on May 31, 2000.

In the meantime, the SRS sent the Board a copy of a notice it had sent the petitioner on April 18, 2000 raising concerns about her physical health and requiring her to schedule a medical and an audiological examination for herself in order to be allowed to continue operating her day care.

On May 15, 2000 the petitioner requested a continuance of her hearing scheduled on May 31 because she had scheduled a medical appointment on that day. The Board reset the matter for June 28, 2000, on a day when other matters were also scheduled. Sometime prior to June 28, the petitioner informed the Board that she anticipated needing about 4 hours to present her case. Because not enough time had been allocated on June 28, the Board reset the matter for July 11, 2000. This was changed to August 2, 2000 because of a vacation by SRS's attorney.

On July 5, 2000 the board received a copy of a notice to the petitioner from SRS, dated June 29, 2000, that based on her recent medical evaluations she would no longer be permitted to

operate her day care. The notice represented that the petitioner had voluntarily closed her day care for health reasons on June 7, 2000.

On July 31, 2000, the petitioner called the Board to request a continuance of the August 2 hearing because she again had a conflicting appointment that day. The hearing officer granted this continuance over SRS's objection (based largely on the representation that the petitioner was not currently operating her day care). The matter was reset for September 13, 2000.

The petitioner did not appear at the hearing on September 13, 2000, and did not call SRS or the Board to notify them she would not appear.¹ On September 14, the Board (pursuant to Fair Hearing Rule 14) sent the petitioner a letter giving her 7 days to show good cause for her failure to appear.

On September 22, 2000 the Board received a letter from the petitioner alleging she had suffered a painful injury prior to the hearing and had been in too much pain to be aware of the hearing date. Although the petitioner's letter did not specifically request that the matter be reset, the Board

¹ The hearing officer and the SRS attorney and three witnesses made the trip to Burlington solely for the purpose of this hearing.

notified the parties that the matter was reset for hearing on October 18, 2000.

The petitioner did not appear at the hearing on October 18 and did not notify the Board or SRS of her absence.² At the hearing SRS represented that the petitioner has not operated her day care since June due to health reasons, and it requested that the matter be dismissed for lack of progress.

ORDER

The Motion to Dismiss by SRS is granted.

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² Again, the hearing officer, the SRS attorney, and three SRS witnesses made the trip to Burlington in anticipation of this hearing.